

IC 3-11-10

Chapter 10. Voting by Absentee Ballot

IC 3-11-10-1

Voter's affidavit; voting procedure; transmission of ballot by fax

Sec. 1. (a) A voter voting by absentee ballot shall make and subscribe to the affidavit prescribed by IC 3-11-4-21. The voter then shall, except as provided in subsection (b), do the following:

- (1) Mark the ballot in the presence of no other person.
- (2) Fold each ballot separately.
- (3) Fold each ballot so as to conceal the marking.
- (4) Enclose each ballot, with the seal and signature of the circuit court clerk on the outside, together with any unused ballot, in the envelope provided.
- (5) Securely seal the envelope.
- (6) Do one (1) of the following:
 - (A) Mail the envelope to the county election board, with not more than one (1) ballot per envelope.
 - (B) Deliver the envelope to the county election board in person.
 - (C) Deliver the envelope to a member of the voter's household or a person designated as the attorney in fact for the voter under IC 30-5.

(b) A voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6 is not required to comply with subsection (a). The individual designated by the circuit court clerk to receive absentee ballots transmitted by fax shall do the following upon receipt of an absentee ballot transmitted by fax:

- (1) Note the receipt of the absentee ballot in the records of the circuit court clerk as other absentee ballots received by the circuit court clerk are noted.
- (2) Fold each ballot received from the voter separately so as to conceal the marking.
- (3) Enclose each ballot in a blank absentee ballot envelope.
- (4) Securely seal the envelope.
- (5) Mark on the envelope: "Absentee Ballot Received by Fax".
- (6) Securely attach to the envelope the faxed affidavit received with the voter's absentee ballots.

(c) Except as otherwise provided in this title, absentee ballots received by fax shall be handled and processed as other absentee ballots received by the circuit court clerk are handled and processed.

As added by P.L.5-1986, SEC.7. Amended by P.L.4-1996, SEC.68; P.L.126-2002, SEC.61.

IC 3-11-10-1.5

Replacement of candidates on ballot; request for new ballots

Sec. 1.5. (a) This section applies to a voter:

- (1) voting by an absentee ballot that includes a candidate for election to an office who:
 - (A) ceases to be a candidate; and

- (B) is succeeded by a candidate selected under IC 3-13-1 or IC 3-13-2; or
- (2) casting a replacement absentee ballot under IC 3-11-2-16.
- (b) If:
 - (1) the original absentee ballot has not been delivered to the appropriate precinct; and
 - (2) the absentee voter's name has not been marked on the poll list under section 16 of this chapter;

the absentee voter may recast the voter's ballot under this section. To obtain another set of ballots the absentee voter must present a written request for another set of ballots from the circuit court clerk.

(c) Upon receiving a written request under subsection (b), the circuit court clerk shall do the following:

- (1) Place the written request with the absentee voter's original ballots.
- (2) Mark "canceled" on the original set of ballots.
- (3) Preserve the original ballots with the other defective ballots.
- (4) Deliver a new set of ballots to the absentee voter.

As added by P.L.4-1991, SEC.95. Amended by P.L.3-1995, SEC.105; P.L.3-1997, SEC.301.

IC 3-11-10-2

Marking of ballot

Sec. 2. A voter voting by absentee ballot may mark a ballot with a pen or a lead pencil.

As added by P.L.5-1986, SEC.7. Amended by P.L.5-1989, SEC.55.

IC 3-11-10-3

Receipt of ballot; necessity to receive in time

Sec. 3. A county election board must receive an absentee ballot in time for the board to deliver the ballot to the precinct election board of the voter's precinct before the closing of the polls on election day.

As added by P.L.5-1986, SEC.7.

IC 3-11-10-4

Examination of signature

Sec. 4. (a) Upon receipt of an absentee ballot, a county election board (or the absentee voter board in the office of the circuit court clerk) shall immediately examine the signature of the absentee voter to determine its genuineness.

(b) This subsection does not apply to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6. The board shall compare the signature as it appears upon the envelope containing the absentee ballot with the signature of the voter as it appears upon the application for the absentee ballot. The board may also compare the signature on the ballot envelope with any other admittedly genuine signature of the voter.

(c) This subsection applies to an absentee ballot cast by a voter permitted to transmit the voter's absentee ballots by fax under IC 3-11-4-6. The board shall compare the signature as it appears on

the affidavit transmitted with the voter's absentee ballot to the voter's signature as it appears on the application for the absentee ballot. The board may also compare the signature on the affidavit with any other admittedly genuine signature of the voter.

(d) If a member of the absentee voter board questions whether a signature on a ballot envelope or transmitted affidavit is genuine, the matter shall be referred to the county election board for consideration under section 5 of this chapter.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1997, SEC.302; P.L.126-2002, SEC.62.

IC 3-11-10-4.5

Application of section; absentee ballot from voter required to present additional information; procedure

Sec. 4.5. (a) This section applies after December 31, 2003.

(b) Upon receipt of an absentee ballot from a voter required to provide additional information to the county voter registration office under IC 3-7-33-4.5, the county election board shall contact the county voter registration office to determine if the additional information has been filed with the office by the voter.

(c) If the voter has filed the information with the county voter registration office, the county election board shall add a notation to the application indicating that the required information has been filed and that the absentee ballot may be counted if the ballot otherwise complies with this article.

(d) If the voter has not filed the information with the county voter registration office, the county election board shall add a notation on the application filed by a voter described under subsection (c) and on the envelope provided under this chapter reading substantially as follows:

"INSPECTOR: AS OF (insert date absentee ballot application approved) THIS VOTER WAS REQUIRED TO FILE ADDITIONAL DOCUMENTATION WITH THE COUNTY VOTER REGISTRATION OFFICE BEFORE THIS BALLOT MAY BE COUNTED. CHECK THE POLL LIST AND COUNTY ELECTION BOARD CERTIFICATION TO SEE IF THE VOTER HAS FILED THIS INFORMATION. IF NOT, PROCESS AS A PROVISIONAL BALLOT IF THIS BALLOT OTHERWISE COMPLIES WITH INDIANA LAW."

As added by P.L.209-2003, SEC.140.

IC 3-11-10-5

Marking of ballot when signature questioned

Sec. 5. If a county election board unanimously finds that the signature on a ballot envelope or transmitted affidavit is not genuine, the board shall write upon the ballot envelope or transmitted affidavit the words "The county election board has questioned the genuineness of the signature of this voter." These ballots shall be delivered to the polls on election day under section 12 of this chapter with instructions to verify the voter's signature under section 15 of this

chapter.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.260; P.L.126-2002, SEC.63.

IC 3-11-10-6

Disputed ballots; delivery

Sec. 6. If a county election board is unable to unanimously determine whether the signature on a ballot envelope is genuine, the board shall write upon the ballot envelope or transmitted affidavit the words "Signature Disputed". The board then shall deliver all disputed ballot envelopes, together with any evidence of a documentary nature presented before the board, to the proper precinct at the same time that undisputed ballots are delivered.

As added by P.L.5-1986, SEC.7. Amended by P.L.126-2002, SEC.64.

IC 3-11-10-7

Disputed ballots; determination whether ballot to be voted or rejected

Sec. 7. After receipt of disputed ballots under section 6 of this chapter, a precinct election board shall determine whether each disputed ballot will be voted or rejected.

As added by P.L.5-1986, SEC.7.

IC 3-11-10-8

Accepted ballots; sealing into large or carrier envelope with endorsement of circuit court clerk

Sec. 8. If a county election board (or the absentee voter board in the office of the circuit court clerk) unanimously finds that the signature on a ballot envelope or transmitted affidavit is genuine, the board shall enclose immediately the accepted and unopened ballot envelope together with the voter's application for the absentee ballot in a large or carrier envelope. The envelope shall be securely sealed and endorsed with the name and official title of the circuit court clerk and the following words: "This envelope contains an absentee ballot and must be opened only at the polls on election day while the polls are open."

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1997, SEC.303; P.L.126-2002, SEC.65.

IC 3-11-10-9

Accepted ballot envelopes to be kept securely in circuit court clerk's office

Sec. 9. Each circuit court clerk shall keep all accepted ballot envelopes securely in the clerk's office until they are delivered to the proper precincts in accordance with section 12 of this chapter.

As added by P.L.5-1986, SEC.7.

IC 3-11-10-10

Absentee ballots to be kept under two locks in cabinets, boxes, or room

Sec. 10. During the period that absentee ballots are being received, each county election board shall keep the ballots in cabinets, boxes, or a room upon which there are two (2) locks, one (1) for each of the appointed members of the board. Each day the absentee ballots shall be placed in the cabinets, boxes, or room under the direction of the appointed members of the board. If an appointed member cannot be present each day, then that member shall designate someone from the member's political party to be present with the key to the lock at the time the ballots are secured.
As added by P.L.5-1986, SEC.7.

IC 3-11-10-11

Acceptance of delivery of absentee ballots or additional identifying information at post office on election day

Sec. 11. (a) On election day each circuit court clerk (or an agent of the clerk) shall visit the appropriate post office to accept delivery of absentee envelopes at the latest possible time that will permit delivery of the ballots to the appropriate precinct election boards before 6 p.m.

(b) This subsection applies after December 31, 2003. Not later than noon on election day, the county voter registration office shall visit the appropriate post office to accept delivery of mail containing documentation submitted by a voter to comply with IC 3-7-33-4.5. The office shall immediately notify the county election board regarding the filing of this documentation to permit the board to provide certification of this filing to the appropriate precinct election boards before 6 p.m.

As added by P.L.5-1986, SEC.7. Amended by P.L.209-2003, SEC.141.

IC 3-11-10-12

Delivery of absentee ballots and additional identifying information; time for delivery; receipt of both regular and special write-in ballot from same voter

Sec. 12. (a) Each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the polls are open and in sufficient time to enable the precinct election boards to vote the ballots during the time the polls are open.

(c) This subsection applies after December 31, 2003. Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter subject to IC 3-7-33-4.5 who:

- (1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3-18; and
- (2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) This subsection applies after December 31, 2003. If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

- (1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and
- (2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:

- (1) 42 U.S.C. 1973ff for federal offices; and
- (2) IC 3-11-4-12(d) for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1993, SEC.151; P.L.209-2003, SEC.142.

IC 3-11-10-13

Delivery of absentee ballots; county election board to deliver; control by members of both political parties; inspector to sign receipt

Sec. 13. The appointed members of the county election board or members of the absentee voter boards established under section 36 of this chapter shall deliver the absentee ballots under section 12 of this chapter. The delivery of the absentee ballots must be at all times under the combined control of members of both political parties represented on the county election board. Upon delivery of absentee ballots to a precinct election board, the inspector shall sign a receipt for the ballots.

As added by P.L.5-1986, SEC.7.

IC 3-11-10-14

Absentee ballots not arriving on time

Sec. 14. Subject to section 11 of this chapter, absentee ballots received by mail or fax after the county election board has started the final delivery of the ballots to the precincts on election day are considered as arriving too late and need not be delivered to the polls.

As added by P.L.5-1986, SEC.7. Amended by P.L.126-2002, SEC.66.

IC 3-11-10-15

Inspector; opening of envelope; announcing absentee voter's name; comparing signature

Sec. 15. At any time between the opening and closing of the polls on election day, the inspector, in the presence of the precinct election board, shall do all of the following:

- (1) Open the outer or carrier envelope containing an absentee ballot envelope and application.
- (2) Announce the absentee voter's name.
- (3) Compare the signature upon the application with the signature upon the affidavit on the ballot envelope or transmitted affidavit attached to the ballot envelope.

As added by P.L.5-1986, SEC.7. Amended by P.L.126-2002, SEC.67.

IC 3-11-10-16

Inspector; finding of proper execution of requirements; deposit of ballots in ballot box; precincts using voting machines

Sec. 16. (a) If the inspector finds under section 15 of this chapter that:

- (1) the affidavit is properly executed;
- (2) the signatures correspond;
- (3) the absentee voter is a qualified voter of the precinct;
- (4) the absentee voter is registered and is not required to file additional information with the county voter registration office under IC 3-7-33-4.5;
- (5) the absentee voter has not voted in person at the election; and
- (6) in case of a primary election, if the absentee voter has not previously voted, the absentee voter has executed the proper declaration relative to age and qualifications and the political party with which the absentee voter intends to affiliate;

then the inspector shall open the envelope containing the absentee ballots so as not to deface or destroy the affidavit and take out each ballot enclosed without unfolding or permitting a ballot to be unfolded or examined.

(b) The inspector shall then hand the ballots to the judges who shall deposit the ballots in the proper ballot box and enter the absentee voter's name on the poll list, as if the absentee voter had been present and voted in person. The judges shall mark the poll list to indicate that the voter has voted by absentee ballot. If the voter has registered and voted under IC 3-7-36-14, the inspector shall attach to the poll list the circuit court clerk's certification that the voter has registered.

(c) If an absentee ballot is opened under this section in a precinct using voting machines, the precinct election board shall prepare certificates and memoranda under IC 3-12-2-6 that distinguish the votes cast by absentee ballots from votes cast on voting machines.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.261; P.L.126-2002, SEC.68; P.L.209-2003, SEC.143; P.L.14-2004, SEC.121.

IC 3-11-10-16.5

Application of section; additional identifying information not

received; treatment as provisional ballot

Sec. 16.5. (a) This section applies after December 31, 2003.

(b) If the inspector finds under section 16(a) of this chapter that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under section 16(a) of this chapter apply, the inspector shall direct that the absentee ballot be processed as a provisional ballot under IC 3-11.7.

As added by P.L.209-2003, SEC.144.

IC 3-11-10-17

Inspector; finding improper execution of requirements; ballots not to be accepted or counted

Sec. 17. (a) If the inspector finds under section 15 of this chapter that any of the following applies, a ballot may not be accepted or counted:

(1) The affidavit is insufficient or the ballot has not been endorsed with the initials of:

(A) the two (2) members of the absentee voter board in the office of the circuit court clerk under IC 3-11-4-19 or section 27 of this chapter;

(B) the two (2) members of the absentee voter board visiting the voter under section 25(b) of the chapter; or

(C) the two (2) appointed members of the county election board or their designated representatives under IC 3-11-4-19.

(2) A copy of the voter's signature has been furnished to the precinct election board and that the signatures do not correspond or there is no signature.

(3) The absentee voter is not a qualified voter in the precinct.

(4) The absentee voter has voted in person at the election.

(5) The absentee voter has not registered.

(6) The ballot is open or has been opened and resealed. This subdivision does not permit an absentee ballot transmitted by fax to be rejected because the ballot was sealed in the absentee ballot envelope by the individual designated by the circuit court to receive absentee ballots transmitted by fax.

(7) The ballot envelope contains more than one (1) ballot of any kind for the same office or public question.

(8) In case of a primary election, if the absentee voter has not previously voted, the voter failed to execute the proper declaration relative to age and qualifications and the political party with which the voter intends to affiliate.

(9) The ballot has been challenged and not supported.

(b) Subsection (c) applies whenever a voter with a disability is unable to make a signature:

(1) on an absentee ballot application that corresponds to the voter's signature in the records of the county voter registration office; or

(2) on an absentee ballot secrecy envelope that corresponds with the voter's signature:

- (A) in the records of the county voter registration office; or
- (B) on the absentee ballot application.
- (c) The voter may request that the voter's signature or mark be attested to by:
 - (1) the absentee voter board under section 25(b) of this chapter;
 - (2) a member of the voter's household; or
 - (3) an individual serving as attorney in fact for the voter.
- (d) An attestation under subsection (c) provides an adequate basis for an inspector to determine that a signature or mark complies with subsection (a)(2).

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.262; P.L.3-1997, SEC.304; P.L.38-1999, SEC.45; P.L.126-2002, SEC.69; P.L.1-2003, SEC.5.

IC 3-11-10-18

Defective absentee ballots; endorsement; sealing of envelope identified by precinct and date; preservation

Sec. 18. Each ballot not accepted or counted for any of the reasons prescribed by section 17 of this chapter shall, without being unfolded to disclose how it is marked, be endorsed with the words: "Rejected (giving the reason or reasons therefor)." All rejected absentee ballots shall be enclosed and securely sealed in an envelope on which the inspector shall write the words: "Defective absentee ballots." The inspector shall also identify the precinct and the date of the election on the envelope containing the rejected ballots. The defective absentee ballots shall be returned to the same officer and in the same manner as prescribed by this title for the return and preservation of official ballots cast and uncast at the election.

As added by P.L.5-1986, SEC.7.

IC 3-11-10-19

Signing and initialing of absentee ballot

Sec. 19. If a circuit court clerk has signed an absentee ballot and the ballot has been initialed as prescribed by IC 3-11-4-19, no other initialing is required.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.263.

IC 3-11-10-20

Requirements before depositing absentee ballot in ballot box

Sec. 20. Before depositing an absentee ballot in a ballot box, the inspector shall:

- (1) notify the challengers and the pollbook holders that the inspector is about to deposit an absentee ballot; and
- (2) provide the challengers and pollbook holders with the name and address of the absentee voter so that the voter may be challenged under this article.

As added by P.L.5-1986, SEC.7.

IC 3-11-10-21

Challenge of absentee vote; procedure

Sec. 21. The vote of an absentee voter may be challenged at the polls for the reason that the absentee voter is not a legal voter of the precinct where the ballot is being cast. The challenge under this section regarding the absentee ballot must be determined using the procedures for counting a provisional ballot under IC 3-11.7.

As added by P.L. 5-1986, SEC. 7. Amended by P.L. 14-2004, SEC. 122.

IC 3-11-10-22

Challenge of absentee vote; application to be considered as affidavit; procedure

Sec. 22. If an absentee ballot is challenged under section 21 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. In all other respects the challenge procedure is the same as though the ballot was cast by the voter in person. If a proper affidavit is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, then the absentee ballot shall be placed in the ballot box.

As added by P.L. 5-1986, SEC. 7.

IC 3-11-10-23

Death of absentee voter; disposition of ballot

Sec. 23. If proof is given to a precinct election board that an absentee voter marked and forwarded an absentee ballot but died before election day, then the inspector shall return the ballot of the deceased voter with the other defective ballots to the officer issuing the ballots. However, the casting of an absentee ballot by a deceased voter does not invalidate an election.

As added by P.L. 5-1986, SEC. 7.

IC 3-11-10-24

Voters entitled to vote absentee ballot by mail

Sec. 24. (a) Except as provided in subsection (b), a voter who satisfies any of the following is entitled to vote by mail:

- (1) The voter will be absent from the county on election day.
- (2) The voter will be absent from the precinct of the voter's residence on election day because of service as:
 - (A) a precinct election officer under IC 3-6-6;
 - (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;
 - (C) a challenger or pollbook holder under IC 3-6-7; or
 - (D) a person employed by an election board to administer the election for which the absentee ballot is requested.
- (3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury.
- (4) The voter is a voter with disabilities.
- (5) The voter is an elderly voter.
- (6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) After a voter has mailed an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

As added by P.L.5-1986, SEC.7. Amended by P.L.4-1991, SEC.96; P.L.3-1995, SEC.106; P.L.3-1997, SEC.305; P.L.38-1999, SEC.46; P.L.126-2002, SEC.70.

IC 3-11-10-24.5

Applicability; education program to inform of effect of casting multiple votes for single office

Sec. 24.5. (a) This section applies after December 31, 2005.

(b) As required by 42 U.S.C. 15481, an election board must establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple votes for a single office.

As added by P.L.209-2003, SEC.145. Amended by P.L.14-2004, SEC.123.

IC 3-11-10-25

Confined voters or caregivers; voters with disabilities; visits by absentee voter boards; required information

Sec. 25. (a) A voter who votes by absentee ballot because of:

(1) illness or injury; or

(2) caring for a confined person at a private residence;

and who is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

(1) during the regular office hours of the circuit court clerk;

(2) at a time agreed to by the board and the voter;

(3) on any of the twelve (12) days immediately before election day; and

(4) only once before an election, unless:

(A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or

(B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

(1) agreed to by the board and the voter; and

(2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

(e) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.264; P.L.10-1988, SEC.114; P.L.5-1989, SEC.56; P.L.4-1991, SEC.97; P.L.3-1993, SEC.152; P.L.3-1997, SEC.306; P.L.126-2002, SEC.71; P.L.209-2003, SEC.146.

IC 3-11-10-26

Voting before absentee voter board in office of circuit court clerk; absentee uniformed services voters

Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

(1) in the office of the circuit court clerk (or board of elections

and registration in a county subject to IC 3-6-5.2); or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must sign an application on the form prescribed by the commission under IC 3-11-4-5.1 before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.265; P.L.5-1989, SEC.57; P.L.4-1991, SEC.98; P.L.8-1992, SEC.27; P.L.3-1995, SEC.107; P.L.2-1996, SEC.185; P.L.3-1997, SEC.307; P.L.167-2001, SEC.7 and P.L.199-2001, SEC.23; P.L.126-2002, SEC.72; P.L.209-2003, SEC.147; P.L.14-2004, SEC.124.

IC 3-11-10-26.2

Use of electronic voting system to vote by absentee ballot when absentee ballots are counted at central location

Sec. 26.2. (a) A:

- (1) county election board; or
- (2) board of elections and registration;

of a county subject to IC 3-11.5 may adopt a resolution to authorize the circuit court clerk to use an electronic voting system for voting by absentee ballot in the office of the circuit court clerk or board of elections and registration.

(b) A resolution adopted under this section must be adopted by the unanimous vote of the board's entire membership.

(c) A resolution adopted under this section must provide procedures to do the following:

- (1) Secure absentee votes cast on an electronic voting system that provide protection comparable to the protection provided to absentee votes cast by paper ballot.
- (2) Compare the signature on an absentee ballot application with the applicant's signature on the applicant's voter registration application.
- (3) Ensure that an invalid ballot (as determined under IC 3-11.5) is not counted.

(d) A resolution adopted under this section may contain other provisions the board considers useful.

(e) If a resolution is adopted under this section, the circuit court clerk may use as many electronic voting machines for recording absentee votes as the clerk considers necessary, subject to the resolution adopted by the board.

(f) Notwithstanding any other law, an absentee ballot voted on an electronic voting system under this section is not required to bear the seal, signature, and initials prescribed by section 27 of this chapter.

(g) If a resolution is adopted under this section, the procedure for casting an absentee ballot on an electronic voting system must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk under section 26 of this chapter.

As added by P.L.69-2003, SEC.6. Amended by P.L.14-2004, SEC.125.

IC 3-11-10-26.3

Satellite offices

Sec. 26.3. (a) A county election board may adopt a resolution to authorize the circuit court clerk to establish satellite offices in the county where voters may cast absentee ballots before an absentee

voter board.

(b) To be adopted under this section, a resolution must be adopted by the unanimous vote of the board's entire membership.

(c) A resolution adopted under this section must do the following:

(1) State the locations of the satellite offices.

(2) State the hours at which absentee voting may occur at the satellite offices.

(d) The resolution may contain other provisions the board considers useful.

(e) If a resolution is adopted under this section, the procedure for casting an absentee ballot at a satellite office must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk.

As added by P.L.167-2001, SEC.8 and P.L.199-2001, SEC.24.

IC 3-11-10-26.5

Voting before absentee voter board during specific days and hours only

Sec. 26.5. (a) This section applies to:

(1) a municipal election;

(2) a primary conducted in a municipal election year; and

(3) a special election conducted under IC 3-10-8.

(b) Notwithstanding section 26 of this chapter, a county election board (or a town election board acting under IC 3-10-7) may adopt a resolution by the unanimous vote of the board's entire membership stating that voters are entitled to vote by absentee ballot before an absentee voter board in the office of the circuit court clerk or town election board during specific days and hours identified in the resolution.

(c) If the election board adopts a resolution under subsection (b), the board must include written findings of fact in the resolution stating:

(1) the number of absentee ballot applications anticipated or previously received for the election;

(2) the expense to be incurred by providing absentee ballot voting in the office during the entire period required under section 26 of this chapter; and

(3) that voters would experience little or no inconvenience by restricting absentee ballot voting in the office to the days and hours specified in the resolution.

As added by P.L.3-1995, SEC.108.

IC 3-11-10-27

Necessity of circuit court clerk's official seal and signature on absentee ballots and initialing by election officials

Sec. 27. (a) This section does not apply to a ballot mailed to a voter under this chapter.

(b) Subject to IC 3-5-4-9, before a ballot is voted under section 25 or 26 of this chapter before an absentee voter board, it must bear the circuit court clerk's official seal and signature or facsimile signature

and be initialed by:

(1) the absentee voter board visiting the voter under section 25(b) of this chapter (except in a county subject to subsection (c)); or

(2) the county election board or the board's designated representatives under IC 3-11-4-19 if the ballot is cast at the office of the circuit court clerk under section 26 of this chapter.

(c) A county election board may adopt a resolution providing that the absentee ballots to be voted before an absentee voter board visiting the voter under section 25(b) of this chapter must be initialed by the county election board or the board's representatives under IC 3-11-4-19 and not by the absentee voter board visiting the voter. A resolution adopted under this subsection remains in effect until rescinded by the county election board. The election board may not rescind the resolution during the final sixty (60) days before an election.

(d) The initials must be in ink on the back of the ballot, in the person's ordinary handwriting or printing, and without a distinguishing mark of any kind. No other initialing of the absentee ballot is necessary.

As added by P.L.5-1986, SEC.7. Amended by P.L.6-1986, SEC.20; P.L.3-1987, SEC.266; P.L.10-1988, SEC.115; P.L.4-1991, SEC.99; P.L.3-1993, SEC.153; P.L.3-1997, SEC.308; P.L.126-2002, SEC.73; P.L.263-2003, SEC.3.

IC 3-11-10-28

Voting before absentee voter board; handling ballot; privacy; additional identifying information

Sec. 28. (a) A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under IC 3-11-9.

(b) The voter shall then, in the presence of the board, place the ballot in an envelope furnished by the county election board.

(c) The circuit court clerk shall provide, to the extent practicable, the same degree of privacy to absentee voters voting at the office of the circuit court clerk as provided to voters at the polls on election day.

(d) This subsection applies to a voter required to present additional information under IC 3-7-33-4.5. If the voter does not present the required additional information before receiving the absentee ballot, the absentee ballot shall be processed in accordance with section 4.5(d) of this chapter.

(e) Upon accepting the completed absentee ballot from the voter, the board shall provide the voter with a notice:

(1) listing the documentation the voter may submit to the county voter registration office to comply with IC 3-7-33-4.5; and

(2) stating the address and hours of the county voter registration office.

As added by P.L.5-1986, SEC.7. Amended by P.L.4-1991, SEC.100; P.L.8-1992, SEC.28; P.L.209-2003, SEC.148; P.L.14-2004, SEC.126.

IC 3-11-10-29

Affidavit on face of envelope

Sec. 29. The envelope required by section 28 of this chapter must bear upon its face a printed affidavit containing the voter's affirmation under penalties of perjury that the following information is true:

The voter must indicate the voter's precinct and township (or ward and city or town) and indicate whether the voter is entitled to vote as a resident of the precinct or is entitled to vote under IC 3-10-11 or IC 3-10-12.

The voter must sign and date the affidavit, and the absentee voter board must sign the affidavit.

As added by P.L.5-1986, SEC.7. Amended by P.L.17-1993, SEC.16; P.L.12-1995, SEC.86; P.L.3-1995, SEC.109.

IC 3-11-10-30

Voters returning to place of residence before close of polls on election day; voting in person

Sec. 30. Even though the voter may have applied for and received an absentee ballot, a voter who returns to the voter's place of residence before the close of the polls on election day may vote in person under the conditions prescribed by section 31 or 32 of this chapter.

As added by P.L.5-1986, SEC.7.

IC 3-11-10-31

Voters not returning absentee ballot; voting in person; return of ballot to be marked "cancelled"

Sec. 31. If a voter has not returned an absentee ballot, then the voter may vote in person. However, before the voter may vote, the voter must return the ballot to the inspector. The absentee ballot shall be marked "cancelled" and preserved with other defective ballots.

As added by P.L.5-1986, SEC.7.

IC 3-11-10-32

Appearance of voter

Sec. 32. If a voter has marked and returned an absentee ballot but appears in person at the precinct before the voter's name has been marked on the poll list under section 16 of this chapter, then the voter may:

- (1) have the voter's absentee ballot envelope opened in the voter's presence and the ballot contained in the envelope deposited in the ballot box; or
- (2) request a new ballot, which the voter may vote as any other voter voting in person. However, before the voter may vote, the inspector shall take the unopened absentee ballot envelope and

write upon the envelope the words "Unopened because voter appeared and voted in person". The envelope shall be preserved with other defective ballots.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1995, SEC.110.

IC 3-11-10-33

Right to vote in person

Sec. 33. An absentee voter may vote in person at the precinct until the voter's name has been marked on the poll list under section 16 of this chapter.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1995, SEC.111.

IC 3-11-10-34

Voter may vote when absentee ballot marked "Rejected as defective"

Sec. 34. If an envelope containing an absentee ballot has been marked "Rejected as defective" and the voter appears in person at the precinct before the polls close, the voter may vote as any other voter voting in person.

As added by P.L.5-1986, SEC.7.

IC 3-11-10-35

Application of section; unopened envelope containing absentee ballot

Sec. 35. (a) After December 31, 2003, this section does not apply to an absentee ballot required to be treated as a provisional ballot under IC 3-11.7.

(b) If an envelope containing an absentee ballot has not been opened before the close of the polls, then the envelope may not be opened without an order of a court.

As added by P.L.5-1986, SEC.7. Amended by P.L.209-2003, SEC.149.

IC 3-11-10-36

Absentee voter boards; appointment; eligibility; service by candidate or candidate's relative

Sec. 36. (a) Each county election board shall appoint absentee voter boards.

(b) The absentee voter boards must consist of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board. If a special election is held for a local public question, the county election board may, by unanimous vote of the entire membership of the board, adopt a resolution to provide that the party membership requirement does not apply to absentee voter boards appointed to conduct the special election. A resolution adopted under this subsection may not be repealed and expires the day after the special election.

(c) An otherwise qualified person is eligible to serve on an absentee voter board unless the person:

(1) is unable to read, write, and speak the English language;

(2) has any property bet or wagered on the result of the election;
(3) is a candidate to be voted for at the election, except as an unopposed candidate for precinct committeeman or state convention delegate; or

(4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, or niece of a candidate or declared write-in candidate to be voted for at the election, except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the candidate is the result of birth, marriage, or adoption.

(d) A person who is a candidate to be voted for at the election or who is related to a candidate in a manner that would result in disqualification under subsection (c) may, notwithstanding subsection (c), serve as a member of an absentee voter board if:

(1) the candidate is seeking nomination or election to an office in an election district that does not consist of the entire county; and

(2) the county election board restricts the duties of the person as an absentee voter board member to performing functions that could have no influence on the casting or counting of absentee ballots within the election district.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.267; P.L.7-1990, SEC.49; P.L.4-1991, SEC.101; P.L.3-1993, SEC.154; P.L.3-1997, SEC.309; P.L.14-2004, SEC.127.

IC 3-11-10-37

Absentee voter boards; recommendations for appointments

Sec. 37. (a) Not later than noon ten (10) days before absentee voting begins under section 26 of this chapter, each county election board shall notify the county chairmen of the two (2) political parties that have appointed members on the county election board of the number of absentee voter boards to be appointed under section 36 of this chapter.

(b) The county chairmen shall make written recommendations for the appointments to the county election board not later than noon three (3) days before absentee voting begins under section 26 of this chapter. The county election board shall make the appointments as recommended. If a county chairman fails to make any recommendations, then the county election board may appoint any voters of the county who comply with section 36 of this chapter.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1997, SEC.310; P.L.14-2004, SEC.128.

IC 3-11-10-38

Absentee voter boards; compensation

Sec. 38. The voters appointed to the absentee voter boards under section 36 of this chapter shall be compensated in the following manner:

(1) The boards that are sent to voters under section 25 of this

chapter are entitled to a per diem set by the county executive and a sum for mileage at a rate determined by the county fiscal body.

(2) The boards that are assigned to the circuit court clerk's office during the period from thirty (30) days before election day through the day before election day are entitled to a per diem set by the county executive.

(3) The boards that are assigned to deliver the absentee ballots to the precincts on election day are entitled to a per diem and a sum for mileage at a rate determined by the county fiscal body.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1987, SEC.268; P.L.5-1989, SEC.58; P.L.3-1995, SEC.112; P.L.10-1997, SEC.4.

IC 3-11-10-39

Absentee voter boards; training sessions; per diem for attendance

Sec. 39. Each county election board shall conduct a training session for the members of the absentee voter boards. A member of an absentee voter board must receive the training before the member begins performing the member's duties. At the training session the duties of the absentee voter boards and the election laws and penalties pertaining to their duties shall be explained in detail. The members of absentee voter boards are entitled to a per diem set by the county executive for attending the training session.

As added by P.L.5-1986, SEC.7. Amended by P.L.3-1995, SEC.113; P.L.66-2003, SEC.42.